IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 381 OF 2002

1.SHRI DESMOND NUNES, MAPUSA-GOA ....Petitioners
AND ANR.,

Versus

MISS. MARIA D. PEREIRA, MAPUSA-GOA ....Respondent

Mr.Rohit Bras De Sa, Mr.r.g. Ramani For Resp.

Coram:- V.C. DAGA, J.

Date:- 24th August, 2006

P.C.

1 None for the petitioner even at second call.
Heard Mr. Ramani for the respondent. With the assistance of Mr. Ramani, I went through the the impugned order. The amendment application moved by the petitioner came to be rejected on two counts. Firstly, on the touchstone of proviso to Order 6 Rule 17 of the CPC and secondly, on the ground that the amendment application came to be moved after cross-examination of 4 witnesses produced by the plaintif, that too, after obtainig 22 adjournments. In this view of the matter, the trial Court came to the conclusion that the amendment application was not bonafide and was moved with a view to protract litigation.

2. So far as first ground is concerned that the petitioner is wrongly non-suited on the ground of appliability of the amended part of provisions of Order 6 Rule 17 of CPC, the amended provision of O.6 R.17 would not be applicable to the present case. On this count finding of the Court below is unsustainabe.

3.So far as second ground is concerned, filing of application for

amendment after cross-examination of 4 witnesses and that too after taking 22 adjournments is not in dispute. The trial Court, therefore, was perfectly justified in finding that the amendment application was not bonafide. The view taken by the trial Court on this count is a reasonable and possible view and can be supported by evidence on record. In this view of the matter, no case is made out to interfere with the impugned order. The petition is dismissed . Rule s discharged with no order as to costs.

V.C. DAGA, J.

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